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6 COSTCO WHOLESALE CORPORATION

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 JEAN EILEEN BRADY,

13 Plaintiff,

14 vs.

15 COSTCO WHOLESALE CORPORATION;
16 and DOES 1 TO 50,

17 Defendants.

Case No.

Underlying Case No. 22CV398385 (Santa Clara County Superior Court)

NOTICE OF REMOVAL TO FEDERAL COURT [Diversity of Citizenship, 28 U.S.C. §§ 1332, 1441, 1446]

DEMAND FOR JURY TRIAL

1 TO THE CLERK OF THE ABOVE-NAMED FEDERAL DISTRICT COURT:

2 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant
3 Costco Wholesale Corporation (hereinafter “Costco”) hereby removes Case No. 22CV398385
4 from the Superior Court in and for the County of Santa Clara to the United States District Court
5 for the Northern District of California, San Jose Division.

6 **I. PROCEDURAL HISTORY**

7 On May 13, 2022, Plaintiff Jean Eileen Brady (hereinafter “Brady”) filed a summons, civil
8 cover sheet, jury fees, and complaint in the Superior Court for the State of California in and for the
9 County of Santa Clara (hereinafter “Superior Court”), an action entitled *Jean Eileen Brady v. Costco*
10 *Wholesale Corporation, and Does 1 to 50* (hereinafter “the Action”), Case No. 22CV398385, a copy
11 of which is attached in **Exhibit A**.

12 On June 15, 2022, Plaintiff filed proof of service for summons, a copy of which is attached in
13 **Exhibit A**.

14 On July 11, 2022, Defendant Costco filed an Answer to the Complaint, jury fees, and a
15 demand for a jury trial, copies of which are attached in **Exhibit A**. Costco is the only named
16 Defendant in the Action.

17 On July 29, 2022, Defendant received Plaintiff’s response to Defendant’s Request for
18 Statement of Damages. The Statement of Damages is the first indication of damages exceeding
19 \$75,000.00 and gives rise to this removal. Plaintiff claims \$126,885.70 economic damages and
20 \$1,000,000.00 non-economic damages, totaling \$1,126,885.70. A copy is attached in **Exhibit A**.

21 **II. BASIS FOR REMOVAL**

22 The Action is removable to this Court pursuant to the provisions of 28 U.S.C. § 1441(a)
23 because this Court would have had original diversity jurisdiction over plaintiff’s claims pursuant to
24 the provisions of 28 U.S.C. § 1332(a)(1) on the grounds that plaintiff and defendant were and are
25 citizens of different States and the amount in controversy exceeds the sum or value of \$75,000.

26 A. **Citizenship of the Parties**

27 In reliance upon information obtained in its investigation of the claim that underlies the
28 Action, Costco asserts that Plaintiff was and is a citizen and resident of the State of California.

Costco, the only named Defendant, was and is a corporation incorporated under the laws of the State of Washington and having its principal place of business in Washington. There is therefore complete diversity of citizenship.

B. Amount in Controversy

Plaintiff's complaint requests damages in excess of \$75,000.00. Specifically, Plaintiff's Statement of Damages claims damages of at least \$1,126,885.70 for economic and non-economic damages.

III. VENUE OF REMOVED ACTION

This Court is the United States District Court for the district embracing the place where the state court action is pending (the Superior Court in and for the County of Santa Clara). Therefore, pursuant to 28 U.S.C. §§ 1441(b) and 1446 and this Court's Civil Local Rule 3-2(d), the San Jose Division of the United States District Court for the Northern District of California is the appropriate court for the removal of the Action.

IV. THIS NOTICE OF REMOVAL IS TIMELY FILED

The removal of this civil action to this Court is timely under 28 U.S.C. § 1446(b)(3) because this Notice of Removal is filed within thirty (30) days after July 29, 2022, which is the date of the service of the Plaintiff's Statement of Damages—being the time in which removal could be ascertained. Also, less than one year has elapsed since commencement of the action. 28 U.S.C. § 1446(c)(1).

V. THE SANTA CLARA SUPERIOR COURT

Concurrently with this Notice of Removal for Federal Court, Defendant Costco will file a Notice to Plaintiff of Removal of Action to Federal Court, along with a copy of this Notice of Removal for Federal Court with the Superior Court of the State of California in and for the County of Santa Clara, and in accordance with 28 U.S.C. §§ 1446(d), Defendant Costco will serve a copy thereof upon counsel for Plaintiff Brady. A copy of the prepared Notice to Plaintiff of Removal to Federal Court is attached hereto and incorporated herein by reference as **Exhibit B**.

1 If any question arises as to the propriety of the removal of this action, counsel for Defendant
2 Costco respectfully requests the opportunity to present a brief and oral argument in support of the
3 position that this case is removable.

4 **VI. JURY TRIAL DEMAND**

5 Defendant Costco hereby demand a trial by jury. Fed. R. Civ. P. 38.

6 **VII. CONCLUSION**

7 Costco respectfully requests that the Action be removed from the State Court in which it was
8 filed to the United States District Court for the Northern District of California.

9 Dated: August 12, 2022

FORD, WALKER, HAGGERTY & BEHAR, LLP

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11 By: /S/ Arthur J. Casey

12 ARTHUR J. CASEY

13 DERRICK J. MCKAIN

14 Attorneys for Defendant

15 COSTCO WHOLESALE CORPORATION
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